

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

**HFS 73.10 Individual hardship exceptions to limits on funding for CBRF care.** (1) **LIMITATION ON FUNDING.** Each county shall annually establish limits on spending for services for persons who reside in CBRFs from the allocations received under s. 46.27 (7) and (11), Stats., and s. 46.277(5), Stats., for community long-term support services. A county department shall include those limits in the county plan for participation in COP under s. 46.27 (4) (c), Stats. (2) **LIMITATION ON ELIGIBILITY.** If the projected cost of the services for an individual who is residing or intending to reside in a CBRF and initially applies for services to a county department would cause the county department to exceed a limit on spending for services provided to persons who reside in CBRFs under sub.

(1), the individual is not eligible for those services using funds allocated under s. 46.27 or 46.277 (5), Stats., unless the department grants a hardship exception under sub. (3) for the individual.

(3) **HARDSHIP EXCEPTION.** The department may grant an exception to a limitation under sub. (1) for funding of services to persons who reside in CBRFs if all of the following are met:

(a) *Application.* The county department files a request for an exception in accordance with instructions included in the community options program guidelines and procedures, following approval by the county long-term support planning committee under s. 46.27 (4), Stats.

(b) *Documentation of applicant preference.* The request is accompanied by documentation that the proposed living arrangement is the one preferred by the applicant for services after options have been fully discussed with that person.

(c) *Hardship condition.* The applicant for services has been diagnosed as terminally ill by a physician and hospice services can be provided to the applicant for services in the CBRF in which that person resides or intends to reside.

(d) *Facility criteria.* The CBRF in which the applicant for services resides or intends to reside meets all of the following criteria:

1. The CBRF is properly licensed to serve the applicant for services and either has a contract for services with the county requesting the exception or is willing to negotiate a contract for services with the county.

2. The CBRF is any of the following:

a. Licensed for 8 beds or less.

b. Licensed for more than 8 beds and approved by the department under s. 46.27 (7) (cm) 1., Stats., for use of COP funds for the applicant for services.

**History:** Emerg. cr. eff. 1-1-96; cr. Register, May, 1996, No. 485, eff. 6-1-96;

CR 00-056: am. (1), Register August 2001 No. 548, eff. 9-1-01.

**HFS 73.11 Criteria for determination of the infeasibility of in-home services.** (1) A county may use long-term support funds under s. 46.27 or 46.277, Stats., to provide services to a person residing in a CBRF if the county department or aging unit has determined that all 5 conditions under s. 46.27 (7) (c) 3., 46.27 (11) (c) 5n., or 46.277 (5) (d) 1n., Stats., have been met.

**Note:** The five conditions are: the completion of an assessment before the person's admission; determination of the infeasibility of in-home care; determination that the CBRF is the person's preferred residence; determination that the CBRF provides a quality environment and quality care services; and determination that the CBRF is cost-effective when compared to other residential options.

(2) To determine in-home care is infeasible, the county department or aging unit shall document in writing that all of the following have occurred:

(a) A change has occurred in the individual's condition, functioning, living situation or supports so that arrangements that were in place and adequate to maintain the individual's health, safety and well-being are no longer sufficient to provide or ensure the provision of what the individual needs.

**Note:** Examples include, but are not limited to, when a spouse or other family member who has been a major caregiver dies or for some other reason can no longer provide care, or when there is a major change in the medical condition of a program participant such as a stroke or heart attack and there is need for more care and support but the additional funds or needed caregivers are for some reason not available.

(b) Options for supporting the individual in his or her own home and community have been explored or attempted but have either failed or been found to be unavailable or not possible.

**Note:** Examples of efforts include, but are not limited to, other relatives, friends, neighbors or volunteers have been contacted; professional workers from a home health agency have been recruited and have attempted unsuccessfully to work with the individual in his or her home; and other options such as modifying the home and providing adaptations and aids to enable the individual to be more independent or obtaining nutritional services, adult day care and transportation are not available, feasible or cost-effective.

**History:** CR 00-056: cr.

Register August 2001 No. 548 eff. 9-1-01.